

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Amendments and Status of the Claims

Claims 1 and 2 are amended according to the examiner's recommendation. Support for the amendments can be found at page 7, line 21 through page 8, line 11. Support for the amendment to claim 2 is found in experiment 1 at page 10, lines 24 through page 11, lines 10. Claims 3 and 4 are presently withdrawn. No new matter is added.

Upon entry of the current amendment and response, claims 1-2 are pending further examination on the merits.

II. Information Disclosure Statement

In the August 30, 2006, May 9, 2007 and June 12, 2007 IDS submissions, the Office identified two non-compliant references. A complaint copy of Thiele is submitted herewith. Applicant's are attempting to obtain a compliant English language translation or English language summary of Iwai, and will submit the compliant reference in due course. Accordingly, applicants request that the Office provide an initialed copy of the previous SB08 form indicating the Thiele reference has been considered.

III. Specification

Applicants have amended the specification to correct informalities on pages 7, 10, 11 and 12. No new matter is added. The objections to the specification are now moot, and applicants request the objections be withdrawn.

IV. Rejections under 35 U.S.C. § 112

Claims 1 and 2 stand rejected under 35 U.S.C. § 112 as allegedly indefinite and also for lacking an enabling disclosure. Examiner Kosar kindly proposed an amended claim set deemed allowable, and applicants have amended the claims accordingly. Additionally,

Examiner Kosar requires clarification “as to the identity of the “transparency” of figure 5.” Office Action at page 11, line 18.

To clarify the term transparency, applicants concurrently submit an English language translation of the product brochure for “Elixir Superieur,” a whitening agent which improves the transparency of skin. As this document details, skin transparency is determined by light passing through the outermost, horny layer of the skin and then being internally reflected. When the structure of the horny layer is compromised, the degree of light passing through the skin is reduced, and skin appears cloudy or less transparent.

As a demonstration of the concept of transparency, Figure 5 depicts pig skin samples displayed on-top a black surface. The back surface is clearly visible through the untreated, “transparent” pig skin sample, however transparency of the samples decreases in a concentration dependent manner following treatment with the oxidizing agent acrolein. Treatment with 100 mM of acrolein almost completely eliminates the transparency of sample, resulting in an opaque sample through which the black surface is no longer visible.

Having made the suggested claim amendments, and clarified the term transparency, the rejections under section 112 are overcome. Accordingly, applicants request the rejections be withdrawn.

V. Claim Rejections under 35 U.S.C. § 101, § 102(b) and 103(a)

A. Claims 1 and 2 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subjected matter.

B. Claim 1 stands rejected under 35 U.S.C. 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. 103(a) as unpatentable in view of GIRARD (Girard, P. et al., *Current Problems in Dermatology*, 1998, v26, pp.99-107.). Claim 1 is further rejected under 35 U.S.C. 102(b) as allegedly anticipated by RICHERT (*Arch. Biochem. Biophys.*, 2002, v397(2), pp. 430-432) or GILLIES (*J. Invest. Dermatol.*, 2002, v397(2), pp. 430-432.) or SANDER (The Society for Investigative Dermatology, Inc., 2002, v118(4), pp.618-625) or THIELE (The Society for Investigative Dermatology, Inc., 1999, v113(3), pp.335-359).

Examiner Kosar kindly proposed an amended claim set deemed allowable, and applicants have amended the claims accordingly. The aforementioned rejections are, therefore, moot following entry of this amendment, and applicants request they be withdrawn.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date March 18, 2009

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

Stephen B. Maebius
Attorney for Applicant
Registration No. 35,264